

ATTACHMENT 2
VARGAS MINOR USE PERMIT
EXHIBIT B - CONDITIONS OF APPROVAL

Approved Development

1. This approval authorizes the:
 - a. Construction of a 3,000 square foot (sf) wine processing facility and related site improvements;
 - b. Annual wine production is estimated at 5,000 cases;
 - c. Industry Wide events as allowed per ordinance;
 - d. Adjustment to the minimum 100 foot setback to the property line, to allow the wine processing facility to be located 50 feet from the (rear) property line.
2. This Minor Use Permit does not authorize public tasting or any special events.

Conditions to be completed at the time of application for construction permits or prior to issuance of construction permits

Development

3. All development shall be consistent with the approved site plan, and floor plans.
4. The applicant shall obtain the following permits in addition to any and all other permits required by ordinance or code. Plans shall be prepared or certified by the licensed architect or engineer of record.
 - a. A building permit to construct the winery building;
 - b. A grading permit if required.

Water

5. (W-1) **At the time of application for construction permits**, a pump test should be performed to ensure that there will be sufficient water available to serve the proposed project. The applicant shall contact the Environmental Health Department for specific pump requirements.
6. (W-2) **At the time of application for construction permits**, the applicant shall submit to the Environmental Health Department for review and approval a water quality test.
7. (W-3) **At the time of application for construction permits**, the applicant shall show on the construction permits, project designs that will promote groundwater recharge (22.52.140) by application of Low Impact Development (LID) design techniques. For example roof runoff should be directed to drainage swales and not to impervious surfaces, rain barrels, stormwater ponds, bio-retention systems, or other methods as approved by Public Works. At least two designer selected LID measures shall be applied to the project.

Exterior Lighting

8. **At the time of application for construction permits**, the applicant shall provide details on any proposed exterior lighting, if applicable. The details shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp nor the related reflector interior surface is visible from adjacent properties. Light hoods shall be dark colored.

Fire Safety

9. **At the time of application for construction permits**, all plans submitted to the Department of Planning and Building shall meet the fire and life safety requirements of the California Fire Code.

Kit Fox

10. **(BR-1) Prior to issuance of grading and/or construction permits**, the applicant shall submit evidence to the County of San Luis Obispo, Department of Planning and Building, Environmental and Resource Management Division (County) (see contact information below) that states that one or a combination of the following two San Joaquin kit fox mitigation measures has been implemented:

- a. Provide for the protection in perpetuity, through acquisition of fee or a conservation easement of 0.1 acres of suitable habitat in the kit fox corridor area (e.g. within the San Luis Obispo County kit fox habitat area, northwest of Highway 58), either on-site or off-site, and provide for a non-wasting endowment to provide for management and monitoring of the property in perpetuity. Lands to be conserved shall be subject to the review and approval of the California Department of Fish and Game (Department) and the County.

This mitigation alternative (a.), requires that all aspects of this program must be in place before County permit issuance or initiation of any ground disturbing activities.

- b. Deposit funds into an approved in-lieu fee program, which would provide for the protection in perpetuity of suitable habitat in the kit fox corridor area within San Luis Obispo County, and provide for a non-wasting endowment for management and monitoring of the property in perpetuity.

Mitigation alternative (b) above, can be completed by providing funds to The Nature Conservancy (TNC) pursuant to the Voluntary Fee-Based Compensatory Mitigation Program (Program). The Program was established in agreement between the Department and TNC to preserve San Joaquin kit fox habitat, and to provide a voluntary mitigation alternative to project proponents who must mitigate the impacts of projects in accordance with the California Environmental Quality Act (CEQA). The fee, payable to "The Nature Conservancy," would total **\$1,000.00**. This fee is calculated based on the current cost-per-unit of \$2500 per acre of mitigation, which is scheduled to be adjusted to address the increasing cost of property in San Luis Obispo County; your actual cost may increase depending on the timing of payment. This fee must be paid after the Department provides written notification identifying your mitigation options but prior to County permit issuance and initiation of any ground disturbing activities.

- a. Purchase **0.4** credits in a Department-approved conservation bank, which would provide for the protection in perpetuity of suitable habitat within the kit fox corridor area and provide for a non-wasting endowment for management and monitoring of the property in perpetuity.
- b. If none of the above measures (a, b, or c) are available, the applicant may enter into a Mitigation Agreement with the Department, including depositing of funds into an escrow account (or other means of securing funds acceptable to the Department) which would ensure the protection in perpetuity of **0.4** acres of suitable habitat within the kit fox corridor area and provide for a non-wasting endowment for management and monitoring in perpetuity. The Department can provide a draft agreement to review; a signed Mitigation Agreement shall be submitted to the County prior to County permit issuance and initiation of any ground disturbing activities.

11. **(BR-2) Prior to issuance of grading and/or construction permits**, the applicant shall provide evidence that they have retained a qualified biologist acceptable to the County Division of Environmental and Resource Management. The retained biologist shall perform the following monitoring activities:

- a. **Prior to issuance of grading and/or construction permits and within 30 days prior to initiation of site disturbance and/or construction**, the biologist shall

ATTACHMENT 2

conduct a pre-activity (i.e. pre-construction) survey for known or potential kit fox dens and submit a letter to the County reporting the date the survey was conducted, the survey protocol, survey results, and what measures were necessary (and completed), as applicable, to address any kit fox activity within the project limits.

- b. The qualified biologist shall conduct weekly site visits during site-disturbance activities (i.e. grading, disking, excavation, stock piling of dirt or gravel, etc.) that proceed longer than 14 days, for the purpose of monitoring compliance with required Mitigation Measures BR-3 through BR11. Site-disturbance activities lasting up to 14 days do not require weekly monitoring by the biologist unless observations of kit fox or their dens are made on-site or the qualified biologist recommends monitoring for some other reason (see BR-2-c3). When weekly monitoring is required, the biologist shall submit weekly monitoring reports to the County.
- c. **Prior to or during project activities**, if any observations are made of San Joaquin Kit fox, or any known or potential San Joaquin kit fox dens are discovered within the project limits, the qualified biologist shall re-assess the probability of incidental take (e.g. harm or death) to kit fox. At the time a den is discovered, the qualified biologist shall contact the U.S. Fish and Wildlife Service and the Department for guidance on possible additional kit fox protection measures to implement and whether or not a Federal and/or State incidental take permit is needed. If a potential den is encountered during construction, work shall stop until such time the U.S. Fish and Wildlife Service/Department determine it is appropriate to resume work.

If incidental take of kit fox during project activities is possible, **before project activities commence**, the applicant must consult with the U.S. Fish and Wildlife Service and the Department (see contact information below). The results of this consultation may require the applicant to obtain a Federal and/or State permit for incidental take during project activities. The applicant should be aware that the presence of kit foxes or known or potential kit fox dens at the project site could result in further delays of project activities.

In addition, the qualified biologist shall implement the following measures:

- 1. **Within 30 days prior to initiation of site disturbance and/or construction**, fenced exclusion zones shall be established around all known and potential kit fox dens. Exclusion zone fencing shall consist of either large flagged stakes connected by rope or cord, or survey laths or wooden stakes prominently flagged with survey ribbon. Each exclusion zone shall be roughly circular in configuration with a radius of the following distance measured outward from the den or burrow entrances:
 - a) Potential kit fox den: 50 feet
 - b) Known or active kit fox den: 100 feet
 - c) Kit fox pupping den: 150 feet
 - 2. All foot and vehicle traffic, as well as all construction activities, including storage of supplies and equipment, shall remain outside of exclusion zones. Exclusion zones shall be maintained until all project-related disturbances have been terminated, and then shall be removed.
 - 3. If kit foxes or known or potential kit fox dens are found on site, daily monitoring during ground disturbing activities shall be required by a qualified biologist.
12. **(BR-3) Prior to issuance of grading and/or construction permits**, the applicant shall clearly delineate as a note on the project plans, that: *"Speed signs of 25 mph (or lower) shall be posted for all construction traffic to minimize the probability of road mortality of the San Joaquin kit fox."* Speed limit signs shall be installed on the project site **within 30 days prior to initiation of site disturbance and/or construction**.

ATTACHMENT 2

In addition, **prior to permit issuance and initiation of any ground disturbing activities**, conditions BR-3 through BR-11 of the Developer's Statement/Conditions of Approval shall be clearly delineated on project plans.

13. **(BR-4) During the site disturbance and/or construction phase**, grading and construction activities after dusk shall be prohibited unless coordinated through the County, during which additional kit fox mitigation measures may be required.
14. **(BR-5) Prior to issuance of grading and/or construction permit** and within 30 days prior to initiation of site disturbance and/or construction, all personnel associated with the project shall attend a worker education training program, conducted by a qualified biologist, to avoid or reduce impacts on sensitive biological resources (i.e. San Joaquin kit fox). At a minimum, as the program relates to the kit fox, the training shall include the kit fox's life history, all mitigation measures specified by the county, as well as any related biological report(s) prepared for the project. The applicant shall notify the County shortly prior to this meeting. A kit fox fact sheet shall also be developed prior to the training program, and distributed at the training program to all contractors, employers and other personnel involved with the construction of the project.
15. **(BR-6) During the site-disturbance and/or construction phase**, to prevent entrapment of the San Joaquin kit fox, all excavation, steep-walled holes or trenches in excess of two feet in depth shall be covered at the close of each working day by plywood or similar materials, or provided with one or more escape ramps constructed of earth fill or wooden planks. Trenches shall also be inspected for entrapped kit fox each morning prior to onset of field activities and immediately prior to covering with plywood at the end of each working day. Before such holes or trenches are filled, they shall be thoroughly inspected for entrapped kit fox. Any kit fox so discovered shall be allowed to escape before field activities resume, or removed from the trench or hole by a qualified biologist and allowed to escape unimpeded.
16. **(BR-7) During the site-disturbance and/or construction phase**, any pipes, culverts, or similar structures with a diameter of four inches or greater, stored overnight at the project site shall be thoroughly inspected for trapped San Joaquin kit foxes before the subject pipe is subsequently buried, capped, or otherwise used or moved in any way. If during the construction phase a kit fox is discovered inside a pipe, that section of pipe will not be moved, or if necessary, be moved only once to remove it from the path of activity, until the kit fox has escaped.
17. **(BR-8) During the site-disturbance and/or construction phase**, all food-related trash items such as wrappers, cans, bottles, and food scraps generated shall be disposed of in closed containers only and regularly removed from the site. Food items may attract San Joaquin kit foxes onto the project site, consequently exposing such animals to increased risk of injury or mortality. No deliberate feeding of wildlife shall be allowed.
18. **(BR-9) Prior to, during and after the site-disturbance and/or construction phase**, use of pesticides or herbicides shall be in compliance with all local, state and federal regulations. This is necessary to minimize the probability of primary or secondary poisoning of endangered species utilizing adjacent habitats, and the depletion of prey upon which San Joaquin kit foxes depend.
19. **(BR-10) During the site-disturbance and/or construction phase**, any contractor or employee that inadvertently kills or injures a San Joaquin kit fox or who finds any such animal either dead, injured, or entrapped shall be required to report the incident immediately to the applicant and County. In the event that any observations are made of injured or dead kit fox, the applicant shall immediately notify the U.S. Fish and Wildlife Service and the Department by telephone (see contact information below). In addition, formal notification shall be provided in writing within three working days of the finding of any such animal(s).

ATTACHMENT 2

Notification shall include the date, time, location and circumstances of the incident. Any threatened or endangered species found dead or injured shall be turned over immediately to the Department for care, analysis, or disposition.

Fees

20. **Prior to issuance of a construction permit**, the applicant shall pay all applicable school and public facilities and road fees.

Conditions to be completed prior to occupancy or final building inspection /establishment of the use

Wastewater

21. Liquid waste generated by the winery operations must be discharged to a waste water system designed by a civil engineer with expertise in the design of winery wastewater systems and approved by the County Building Official or Regional Water Quality Control Board. Such system shall not create offensive odors or materially impair the quality of groundwater for domestic or agricultural use. Prior to discharge of winery wastewater, the applicant shall obtain approval/permits from the Regional Water Quality Control Board. In no case shall winery wastewater be discharged into a stream or other surface water.

Kit Fox

22. **(BR-11) Prior to final inspection, or occupancy, whichever comes first**, should any long internal or perimeter fencing be proposed or installed, the applicant shall do the following to provide for kit fox passage:

- a. If a wire strand/pole design is used, the lowest strand shall be no closer to the ground than 12".
- b. If a more solid wire mesh fence is used, 8" x 12" openings near the ground shall be provided every 100 yards.

Upon fence installation, the applicant shall notify the County to verify proper installation. Any fencing constructed after issuance of a final permit shall follow the above guidelines.

Fire Safety

23. **Prior to occupancy or final inspection**, which ever occurs first, the applicant shall obtain final inspection and approval from CAL FIRE of all required fire/life safety measures.

Exterior Lighting

24. **Prior to occupancy or final inspection**, any lighting located or installed on the outside of the winery building shall be shielded so that neither the lamp nor the related reflector interior surface is visible from adjacent properties. Light hoods shall be dark colored.

Planning and Building Inspection

25. **Prior to occupancy of any structure**, the applicant shall contact the Department of Planning and Building to have the site inspected for compliance with the conditions of this approval.

On-going conditions of approval (valid for the life of the project)

Time Limits

26. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 22.64.070 or the land use permit is considered vested. This land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed.

ATTACHMENT 2

Substantial site work is defined by Land Use Ordinance Section 22.64.080 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.

27. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 22.74.160 of the Land Use Ordinance.

Outdoor Storage

28. Long term outdoor winery storage areas shall be screened by solid fencing or landscaping and shall not be higher than the associated solid fence screening or landscaping, unless the storage area is not visible from any public road or adjacent properties.
29. Any water tanks associated with the project shall be a neutral, non-contrasting color, and landscape screening shall be provided so that the water tanks are not visible from any public road.

Pomace

30. Solid vegetable waste from the winery (pomace) shall be removed from the site to an approved composting/green waste facility or composted on the site and used as a soil amendment. In no case shall pomace be treated, stored, or disposed of in a manner that could result in runoff into any surface stream.